

El Monte Roads Right of Way Environmental Assessment -- Agency and Public Comments on the Final Environmental Assessment and Record of Decision

SUMMARY

The Public Comment Period for the EA and the preliminary Decision Record opened June 16, 2004, and closed August 2, 2004 (after being extended past the original July 16, 2004 deadline). The comments included 6 letters and 23 form letters signed by individuals. One e-mail was received referencing an attached letter that was not present. A reply e-mail was sent to the commenter pointing out the omission but no response was received by the BLM. All of the letters were opposed to the selected alternative and reiterated issues raised during the public scoping process and raised questions about the NEPA process. A summary of the issue categories is provided below along with BLM's responses to the individual comments.

The 30 letters provided 279 comments. The issues and comments have been reviewed by the BLM and evaluated for incorporation into the NEPA analysis. All comments received have been grouped in the below-listed categories. However, since some comments are duplicative, multiple responses are not provided where they fall into more than one category. Instead they have been placed under an appropriate category and responded to there. In some cases, categories have been combined, e.g. Safety and Traffic.

The discrepancy between the total number of comments received and the comments as they are applied to the following categories are due to certain comments encompassing more than one category and thus counted as such in the table below.

Category	Number of Comments
NEPA Process	164
Safety	29
Indirect Impacts	26
Area of Critical Environmental Concern (ACEC)	23
Law Enforcement and Public Safety	23
Socioeconomics	23
Transportation Planning	23
Tribal Consultation	23
Traffic	7
Alternatives	4
Land Use	4
Road Construction and Maintenance	3
Cumulative Impacts	1
Editing comment	1
Tribal Comment	1
Out of Scope	1
TOTAL	356

The precise identification and categorization of individual comments is a somewhat subjective process, but these results closely reflect the issues raised in the comments received.

ISSUE CATEGORIES

NEPA PROCESS

The comments received in this category relate to several NEPA process issues: Commenters want the EA withdrawn because it is flawed due to the decision already being made, lack of full documentation, the length of the EA, the lack of contact with the City of Santa Fe, and not considering a reasonable alternative. One commenter also wrote that one month is too short to comment on EA

SAFETY

The comments received in this category were related to the safety and welfare of residents living in close proximity to the project area. Concerns are that an increase in traffic associated with the proposed action would jeopardize their safety.

INDIRECT IMPACTS

The comments received in this category were related to the indirect effects of the project on resources. The commenters were concerned that potential future development could require road improvements that could impact the adjacent residents and resources.

AREA OF CRITICAL ENVIRONMENTAL CONCERN (ACEC)

The comments received in this category were related to the possible creation of an ACEC in an area that could be affected by the proposed actions. Commenters called attention to the perceived lack of analysis of this issue.

LAW ENFORCEMENT/ PUBLIC SAFETY

The comments received in this category were related to impacts of the project on law enforcement in the area and general public safety.

SOCIOECONOMICS

The comments received in this category were concerned that the EA fails to consider whether an increase in property taxes resulting from the proposed action might result in an undue burden on low-income residents of Santa Fe County.

TRANSPORTATION PLANNING

The comments in this category relate to the role of county and state plans in governing the proposed road project. Commenters voiced concern over the private vs. public status of the road and possible taxpayer supported maintenance.

TRIBAL CONSULTATION

The comment received in this category was related to the impact of the project on Tribal religious and ancestral sites. The commenter requests that the SHPO and necessary Pueblos be consulted to protect the cultural resources in the area.

TRAFFIC

The comments received in this category were related to the impact of the project on traffic through surrounding neighborhoods. Most commenters were concerned about the impacts of additional traffic (generated from potential future development of the El Monte parcels) on safety, ways of life, noise, etc. throughout the adjacent communities.

Alternatives

Comments received in this category were related to the generation of reasonable alternatives to the proposed road location alternatives. Several commenters focused on the necessity to include and accept a Buckman Road access alternative. Other comments received in this category were in objection to routing the traffic associated with the El Monte parcels along Paseo de la Tierra and Estrada Calabasa West.

LAND USE

Comments received in this category were primarily concerned with the potential future use of the El Monte parcels and access issues. Many commenters voiced opposition to development and objected to the routing of traffic through their neighborhoods and along their streets.

ROAD CONSTRUCTION AND MAINTENANCE

Comments received in this category were specific to issues regarding road construction and maintenance costs and responsibilities.

CUMULATIVE IMPACTS

The comments in this category was that the report and recommendations ignore the compounding effect of further expansion of previously approved developments of Las Campanas, La Tierra, and Las Dos along with the El Monte development.

EDITING COMMENT

The one comment received in this category questioned the naming of certain roads on the project map.

OUT OF SCOPE

The one comment received in this category was considered to be outside the scope of the NEPA analysis and therefore will be addressed only in the responses to comments and not considered further.

TRIBAL COMMENT

One tribe responded to the invitation to join in government-to-government consultation. They expressed concern about protection of the BLM land and stated that they still use all traditional routes in their cultural practices.

BLM RESPONSES TO AGENCY AND PUBLIC COMMENTS ON THE EL MONTE ROADS RIGHT-OF-WAY ENVIRONMENTAL ASSESSMENT AND DECISION RECORD

COMMENT ON AREA OF CRITICAL ENVIRONMENTAL CONCERN (23)

- 1) Designation of Area of Critical Concern (ACEC). The EA refers to the possible creation of an Area of Critical Environmental Concern in an area that could be affected by the proposed action. The EA fails to analyze this issue, however.

Response: The preparation of a management plan in conjunction with designating this area an ACEC would include the evaluation of permissible activities within its boundaries including rights-of-way. However, while designation of an ACEC is still being considered, the Taos Field Office has not yet formally proposed designation. The area is currently managed per direction in the Taos Resource Management Plan of 1988.

COMMENTS ON ALTERNATIVES (4)

- 1) Road would be safer if the narrow part of Horcado Ranch were widened from where it intersects segment 1 until it reaches the wider part OR segment 1 could be moved so that it would intersect the road at the wide part, around Camino del Cerezo.

Response: Widening Horcado Ranch Rd. from where it intersects Segment 1 to where it widens south of the proposed project area would require the issuance of a right-of-way authorizing improvements to be made to the road. Applicants did not apply for a right-of-way for Horcado Ranch Rd and thus this issue is beyond the scope of the EA. If the private lands were developed, Santa Fe County could, as part of the development review process, require that a developer widen Horcado Ranch Rd. which would necessitate a right-of-way from BLM. Santa Fe County (County) could also improve and maintain the road which would also require the issuance of a right-of-way to the County

Extending Segment 1 so that it would intersect with Camino del Cerezo would unnecessarily lengthen the right-of-way causing greater disturbance to BLM land.

- 2) Proposed shorter alternative route going straight up the side of Ortiz and Walker's lands.

Response: This alternative would require even more construction of new roads where none exist. This alternative was not considered for further evaluation in the environmental assessment because of the construction impacts from 3.33-3.72 miles of new roads resulting in 20.2 to 22.5 acres of disturbance to public land.

- 3) Locating the access road west of Tierra Nueva is a simpler and lower-impact alternative.

Response: Alternatives accessing the project from west of Tierra Nueva are included in the Environmental Assessment as "Buckman " alternatives. The potential impacts for all the alternatives are described in the EA; there would be no significant impacts from the "Horcado" alternatives.

- 4) EA fails to mention the Proposed Action Alternative of routing the road along Paseo de la Tierra and Estrada Calabasa West, within La Tierra.

Response: Horcado Ranch Road and other roads leading up to the project area from Camino la Tierra are not part of the Proposed Action Alternative or other Alternatives evaluated in the environmental assessment (EA). However, as these roads would be used by the applicants to access the public land and their private lands, the EA has thoroughly analyzed indirect and cumulative impacts to these roads from the project.

COMMENT ON CUMULATIVE IMPACTS (1)

- 1) Report and recommendations ignore the compounding effect of further expansion of previously approved developments of Las Campanas, La Tierra, and Las Dos along with the El Monte development.

Response: There is no proposed development associated with this project. The proposal is to provide access to private land-locked lands. There is no clear link between expansion in previously-approved developments and possible future development on the lands held by El Monte Roads Association members. It would be speculative to link those actions and effects. All development will be subject to Santa Fe County approval.

COMMENT ON EDITING OF ENVIRONMENTAL ASSESSMENT (1)

- 1) Paseo de la Tierra and Estrada Calabasa West are mislabeled as Horcado Ranch Road which ignores the fact that the new road is bisecting an existing community.

Response : Figure 2.1 , the overview map of the project area in the Environmental Assessment has been revised to show Paseo del la Tierra and Estrada Calabasa. It is attached to this document.

COMMENTS ON INDIRECT IMPACTS (26)

- 1) The EA ignores wildland-urban interface issues. The EA fails to analyze the creation of a new urban interface ... and the effects ...on fire prevention and fire fighting. THE EA ...does not list the BLM's own Fire and Aviation Office or the Santa Fe County Fire Department.

Response: This EA analyzed direct and indirect effects of establishing road easements and building roads to the subject parcels. The creation of a wildland urban interface will only occur if the properties are developed, which is outside the scope of this document. Development will only take place if Santa Fe County (County) approves a development plan. If plans for development are submitted to the County, the County will involve the appropriate agencies in the review and approval process.

- 2) Costly study...does not address the EI [sic] and minimizes effects on existing areas.

Response: Comment noted. Effects to surrounding areas are addressed in Chapter 3 of the Environmental Assessment. Direct effects are minimal to the surrounding areas. If the private lands are developed, possible indirect effects are primarily related to increased traffic and traffic planning. Development and traffic planning are regulated by Santa Fe County.

- 3) Project area does not show La Tierra, which is more affected than Las Campanas.

Response: Figure 2.1 in the Environmental Assessment, which depicts an overview of the project area, has been revised to show the public roads extending through communities south of the project area. Revised map is attached to the Final Decision Record/FONSI.

COMMENTS ON LAND USE (4)

- 1) The road could go off Buckman Road beyond Tierra Vista...Buckman is a straight through-fare...Paseo de la Tierra is a curvy country road that should not take a lot of busy traffic.

Response: Buckman alternatives are considered in the Environmental Assessment (EA). Traffic loads are also addressed in the EA for all alternatives. If the applicant's private lands were to be developed, developers could be required by Santa Fe County to file an environmental impact statement in conjunction with a development plan which assesses all impacts to the Santa Fe County environment from the proposed development. This would include an analysis of the impacts of increased traffic to existing roads and neighborhoods which could in turn determine the scale of a proposed development. At this time, with no development proposed, traffic impacts to the neighborhoods south of the applicant's private lands are speculative.

- 2) Members of El Monte do not have the right to reach the preferred route from nearest public road. SWCA fails to present sufficient evidence that the members of El Monte have the right to access the preferred route from the nearest public road.

Response: The nearest public road to the proposed project is Horcado Ranch Road which crosses BLM land. Members of the public may use Horcado Ranch road where it crosses public land on a casual use basis to access private land.

- 3) One of the comparatively unpopulated Buckman route alternatives would prevent a major highway from going through populated rural developments.

Response: The impacts from Buckman route alternatives were analyzed and considered with the Horcado route alternatives in the Environmental Assessment. The Santa Fe Land Development Code could require that an environmental impact statement (EIS) be filed as part of the development review process where major development of private lands is involved and impacts could be detrimental to existing infrastructure.

3) cont.

The EIS would fully assess the cumulative and long range impacts of a proposed development which would include traffic impacts to existing roads and communities from a project. Public review and comment on a proposed development is also provided by the Santa Fe Land Development Code at various stages of the review process..

- 4) Road going through Zannie and Klopfer properties was declared private in 1991. Easements were given to other homeowners for access but access should not be granted for a large development when the El Monte Association did not give each other access across their own holdings.

Response: Members of the El Monte Roads Association have a "prescriptive easement" over the Klopfer and Garcia portions of Horcado Ranch Road. The Ortiz family has used this road for more than forty years. The legal nature of the easements on the roads passing through the Klopfer and Garcia properties would determine the future use of the roads. However, as the proposed project concerns the granting of rights of way to private landowners across BLM land, a determination of the nature and possible uses of those easements is beyond the scope of the environmental assessment.

COMMENT ON LAW ENFORCEMENT AND PUBLIC SAFETY (23)

- 1) Law Enforcement and Public Safety. The EA makes conclusive statements ... the proposed action will not affect law enforcement or public safety. ... the BLM failed to consult with the Santa Fe County Sheriff's Office or the New Mexico Department of Public Safety or New Mexico State Police with respect to the proposed action.

Response: The proposed action (granting road easements to the private land owners) could result in a maximum of 11 new residences in the area (without review by the agencies that regulate zoning and subdivision). This level of development was judged not to be a significant drain on law enforcement resources. An indirect impact of the project is the potential development of the land. Santa Fe County (County) regulates such development. If the private lands are subdivided or developed, the County planning process will consider impacts to County resources, including law enforcement. The Proposed Action Alternative roads would be built in accordance with Santa Fe County Rd. standards to conform to what is classified as a Local Road. The Santa Fe County Development Code (Code) road classification system is based on average daily traffic on roads and/or number of residences served. As proposed, the right-of-way width of 50 feet and a gravel base course road surface of 24 feet (2 driving lanes of 12 feet each) would meet the design standards for a Local Road. Meeting this standard would ensure that emergency services would be able to access this area. SWCA met with the Agua Fria Fire Department on May 12, 2004 to discuss emergency services response times to the project area. According to fire department personnel, the average response time for emergency services would be 45 minutes to an hour.

COMMENTS ON NEPA PROCESS (164)

- 1) The EA is fatally flawed and should be withdrawn for further analysis or to prepare an EIS.

1) cont.

Response: Comment noted.

- 2) The EA was drafted to justify an already made decision per the settlement agreement with the Proponents.

Response: As the Settlement agreement was subject to the condition that it meet the requirements of the Federal Land Management and Policy Act and the National Environmental Policy Act, it was not binding on BLM as to the selected alternative or other alternatives, including the no-action alternative. BLM did not make a decision on the selected alternative prior to a thorough analysis in the environmental assessment of all alternatives. The selection of the Proposed Action alternative, which includes segment 1, meets the Purpose and Need of the project by providing access to the four parcels of land. Selection of this alternative primarily involves the use of existing roads which lessens the impacts to the public land. While selection of Segment 1 requires a new section of road to be built, stipulations issued with the right-of-way grant would require that this road segment be engineered in accordance with County of Santa Fe and BLM road standards. The stipulations would also require that it be done in accordance with Best Management Practices thus mitigating the environmental impacts to the public land.

- 3) The settlement is not attached which deprives members of the public from reviewing the terms of the settlement. The EA fails to consider a reasonable alternative that would meet the purpose of the proposal. ...The extraordinary engineering effort and expense associated with the selection of Segment 1 for inclusion in the Preferred Alternative is insupportable, especially in light of the availability of the existing Segment 8. Such an alternative should be considered as an alternative to the Proposed Alternative in a new EA or a full EIS..

Response: The Settlement Agreement is attached to the Final Decision Record/FONSI . The Environmental Assessment thoroughly analyzed 8 alternative routes plus the no-action alternative with regards to whether they met the Purpose and Need of the proposed project while minimizing environmental impacts to the public land. Considering all alternatives, the selected alternative best meets the Purpose and Need of the project in light of environmental impacts, engineering feasibility, costs to applicants and other considerations such as the terms of the settlement agreement.

- 4) The EA fails to consider a reasonable alternative that would meet the purpose of the proposal. ...The extraordinary engineering effort and expense associated with the selection of Segment 1 for inclusion in the Preferred Alternative is insupportable, especially in light of the availability of the existing Segment 8. Such an alternative should be considered in as an alternative to the Proposed Alternative in a new EA of a full EIS.

Response: The C, D, and H Alternatives include Road Segment 8 and were considered and analyzed. There is no significant impact from the use of either Segment 1 or Segment 8 and therefore no substantial difference between the segments.

- 5) The length of the EA and the Impacts Analyzed Dictate the Preparation of an EIS. ... a lengthy EA indicates that an EIS is needed.

5) cont.

Response: The comment references the CEQ's Forty Most Asked Questions which are not binding guidance. The purpose of an EA is to determine if there will be significant impacts, which would require analyses through an EIS. Accordingly, all possible impacts were analyzed at all levels (direct, indirect, cumulative) to determine if the proposed alternatives would have a significant impact. For this EA there are eight action alternatives and one no action alternative. Each of the action alternatives is complex and requires a complex description because of the various combinations of the 13 road segments.

- 6) One month is too short a period to comment on such a lengthy document...please extend comment period to Sep. 16th, 2004

Response: The comment period was extended by two weeks to August 2, 2004.

- 7) SWCA failed to contact Santa Fe County regarding the El Monte development. Due to SWCA's deception regarding their contact with Santa Fe County, the BLM cannot rely upon the information presented in the EA.

Response: SWCA had several contacts with Santa Fe County during preparation of the environmental assessment (EA): Charles Gonzales, Director of the Permits and Inspection Division within the Santa Fe County Land Use Department contacted SWCA on February 3, 2003 to discuss an upcoming public meeting on the proposed project. The meeting was held on February 5, 2003. Emilio Gonzales of the Land Use Department was contacted by SWCA on March 4, 2004 to discuss Article 5 of the Santa Fe land Development Code (Code) and the Basin-Fringe hydrological zone. SWCA also contacted Judy McGowan of the Land Use Department in March of 2004 to discuss land use codes.

- 8) The BLM should disregard the EA and eliminate SWCA from any future EA or EIS.

Response: Comment noted.

COMMENT OUTSIDE SCOPE OF THE ENVIRONMENTAL ASSESSMENT (1)

- 1) How can El Monte afford to build the roads?

Response: The applicant has stated on the right-of-way application, as required, that it is financially capable of constructing and maintaining the roads and utilities within the proposed rights-of-way.

COMMENTS ON ROAD CONSTRUCTION AND MAINTENANCE (3)

- 1) Do new landowners pay for the studies?

1) cont.

Response: Studies prepared in conjunction with constructing roads are paid for by the right-of-way applicant.

2) Who will build and maintain the new roads?

Response: El Monte Road Association will construct and maintain the roads if the right-of-way grant is authorized.

3) No evaluation of cost for improving Estrada Calabasa and Paseo de la Tierra to accommodate the increased vehicle traffic.

Response: Traffic impacts in terms of number of vehicles per day are addressed in the Environmental Assessment. Any potential development and associated impacts such as potential costs to improve roads will be evaluated by Santa Fe County. Authorization of this project is not expected to cause substantial increases in traffic.

COMMENTS ON SAFETY AND TRAFFIC (36)

1) Irresponsible to disregard safety of hundreds of residents of La Tierra, Las Dos, and Horcado Ranch for the sake of a few acres of land.

Response: The proposed action (granting road easements to the private land owners) could result in a maximum of 11 new residences in the area (without review by the agencies that regulate zoning and subdivision). This level of development was judged not to be a significant impact to local residents. The indirect impact of the project is the potential for development of the private land. Santa Fe County regulates such development. If the private lands are subdivided or developed, the County planning process will consider impacts to Santa Fe County resources, including traffic, fire, and law enforcement. See also response to comment #1 under Land Use category on page 6.

2) Irresponsible to disregard the impact of potentially 11,800 to 15,734 vehicle trips per day for the sake of a few acres of land.

Response: Traffic loads are addressed in the EIS for all alternatives. Traffic estimates for the project are 55 vehicles per day if each of the landowners builds a residence. If the land is fully developed, which is under the jurisdiction of Santa Fe County, the maximum estimated traffic load is 704 vehicle trips per day. See also response to comment #1 under Land Use category on page 6

3) BLM has not adequately considered the impact of the proposed development on the fragile and inadequate main road through La Tierra, Paseo de la Tierra, and surrounding community.

3) cont.

Response: There is no proposed development. The proposal is to provide access to private land-locked lands. Any proposed development would require Santa Fe County(County) approval. As part of the development review process, the County could require the preparation of an environmental impact statement evaluating the development's impacts to roads and communities south of the project area.

- 4) Paseo de la Tierra is not designed to act as a feeder road for all the areas. Only minor changes have been made to the road and the narrowly divided lanes, winding plan, and blind driveway access points make it unsuited for heavier traffic.

Response: The proposed rights-of-way to the landowners of the El Monte Roads Association will not substantially increase traffic on Paseo de la Tierra. Development of the private land is a possible connected action but outside the jurisdiction of the BLM. Potential impacts to infrastructure from development would be addressed by Santa Fe County if a development plan is proposed. The development review process for private lands would determine if collector and local roads leading to them could sustain heavier traffic. If not, development could be limited or Santa Fe County could require that these roads be upgraded to sustain heavier traffic. See also response to comment #1 under Land Use category on page 6.

- 5) Rural community...does not want noise of estimated 704 cars per day.

Response: Comment noted. The estimated noise levels are considered to be non-significant. It is acknowledged that some receptors may find the level of noise near the roadway to be less desirable than current noise levels.

- 6) Report assumes that there is no impact on houses along Paseo de la Tierra and Estrada Calabasa from additional traffic because the houses are set back from the road.

Response: Set back distance is important and considered a relative buffer to potential noise, air quality and visual impacts.

COMMENT ON SOCIOECONOMICS (23)

- 1) Socioeconomic Impacts. ... The EA fails to consider, however whether and increase in property taxes resulting from the proposed action might result in a undue burden on low-income residents of Santa Fe County.

1) cont.

Response: Section 3.5.2 of the Environmental Assessment addresses the potential for undue burden on low-income residents in the Project Area (NW Santa Fe County). The proposed action in itself would not result in an increase in property taxes, however, an indirect effect could be the construction of houses on the private lands in this area which would affect the value of those lands and possibly other nearby private properties depending on the market value of the new houses. This in turn could affect property taxes in this area. While northwest Santa Fe County has the highest property values in the Santa Fe area, the Environmental Justice section (section 3.5.2., page 112) indicates that only 2.8% of the population in the project area lives below the poverty level. Therefore, there is no demonstrable link between BLM's decision to authorize the right-of-way and an increased tax burden on any segment of the population.

COMMENT ON TRANSPORTATION PLANNING (23)

- 1) The EA fails to consider the Santa Fe County Land Use Plan or Applicable State/County Transportation Plans. The EA makes no mention of whether the proposed action is compatible with local land use plans or regulations. The EA fails to determine whether Santa Fe County has any plans to accept the road as a public road and thereby assume responsibility for maintenance at the expense of county taxpayers.

Response: The Proposed Action does consider and is compatible with the Santa Fe County Development Code (S.F. County Code) in that the Proposed Action Alternative roads would be constructed in accordance with the standards for what is classified as a Local Road. Those standards call for a 50 foot right-of-way with a gravel base course driving surface of 24 feet. The Santa Fe County's Arterial Roads Plan developed in conjunction with its Extra-Territorial Zoning Ordinance does not apply to this area as this area lies beyond the Extra-Territorial Zone, thus the S.F. code would control development and road standards in this area. Determination of whether Santa Fe County would accept the Proposed Action alternative roads as designated Santa Fe County roads would depend on the extent of the development of the private lands and the County's development review process.

COMMENT ON TRIBAL CONSULTATION (24)

- 1) The cultural resources consultation with area tribes is incomplete.

Response: Tribal Consultation has been completed. One tribe responded to the BLM's request for comment. Their comments have been addressed through government-to-government consultation.

- 2) After looking at the area and also walking the purported [sic] sites, we feel that the BLM land should be protected. The Pueblo still use [sic] all traditional routes in our cultural practices and by starting the process to protect the lands would benefit all of us.

2) cont.

Response: Tribal consultation has been completed with this commenting tribe on a government to government basis